

LIMITATION OF OBLIGATION AND LIMITATION OF COST FOR TASK SWO CONTRACTING

[CT, CREI – 09/04] [FAR 52.232-20 – 04/84]

(This AGP supersedes the GP Article of this Subcontract entitled "Limitation of Cost.")

- (a) The parties estimate that the total cost for performance of an individual Subcontract Work Order (SWO), exclusive of any fee, will not cost the Institute more than (i) the estimated cost specified in the individual Subcontract Work Order (SWO), or, (ii) if this is a cost-sharing Subcontract, the Institute's share of the estimated cost specified in the individual Subcontract Work Order (SWO). The Subcontractor agrees to use its best efforts to perform the work specified in each individual Subcontract Work Order (SWO) and all obligations under each individual Subcontract Work Order (SWO) within the estimated cost of such SWO which, if this is a cost-sharing Subcontract, includes both the Institute's and the Subcontractor's share of the cost.
- (b) The Subcontractor shall notify JPL in writing whenever it has reason to believe that:
 - (1) The costs the Subcontractor expects to incur under any individual Subcontract Work Order (SWO) in the next 60 days, when added to all costs previously incurred, will exceed 75% of the estimated cost specified in that individual Subcontract Work Order (SWO); or
 - (2) The total cost for the performance of an individual Subcontract Work Order (SWO), exclusive of any fee, will be either greater or substantially less than had been previously estimated.
- (c) As part of the notification, the Subcontractor shall provide JPL a revised estimate of the total cost of performing the individual Subcontract Work Order (SWO).
- (d) Except as required by other provisions of this Subcontract, specifically citing and stated to be an exception to this Article:
 - (1) The Institute is not obligated to reimburse the Subcontractor for costs incurred in excess of (i) the estimated cost specified in an individual Subcontract Work Order (SWO) or, (ii) if this is a cost-sharing Subcontract, the estimated cost to the Institute specified in the individual Subcontract Work Order (SWO); and
 - (2) The Subcontractor is not obligated to take action under the "Termination" Article of this Subcontract or to continue performance under an individual Subcontract Work Order (SWO) or otherwise incur costs in excess of the estimated cost specified in the individual Subcontract Work Order (SWO), until JPL (i) notifies the Subcontractor in writing that the estimated cost has been increased and (ii) provides a revised estimated total cost of performing that individual Subcontract Work Order (SWO). If this is a cost-sharing Subcontract, the increase shall be allocated in accordance with the formula specified in the individual Subcontract Work Order (SWO).
- (e) No notice, communication, or representation in any form other than that specified in subparagraph (d)(2) above, or from any person other than a duly authorized representative of JPL shall affect the estimated cost of an individual Subcontract Work Order (SWO). In the absence of the specified notice, the Institute is not obligated to reimburse the Subcontractor for any costs in excess of the estimated cost, or if this is a cost-sharing Subcontract, for any costs in excess of the estimated cost to the Institute specified in the individual Subcontract Work Order (SWO), whether those excess costs were incurred during the course of the individual Contract Work Order (SWO) or as a result of termination.
- (f) If the estimated cost specified in the individual Subcontract Work Order (SWO) is increased, any costs the Subcontractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless JPL issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.
- (g) Directions, orders, notices, requests and the like issued by JPL pursuant to the "Changes" Article or any other provision of this Subcontract shall not be considered an authorization to exceed the estimated cost specified in an individual Subcontract Work Order (SWO), in the absence of a statement in a Unilateral Modification or other Subcontract Modification increasing the estimated cost.
- (h) Limitation of Obligation: The Institute shall not be obligated to pay the Subcontractor any amount in excess of the estimated cost set forth in the SWO and the Subcontractor shall not be obligated to continue performance of the work described in such SWO or, to otherwise incur costs in excess of such estimated cost, unless and until JPL shall have issued a written SWO Supplement increasing such estimated cost.